

**COMMENTS AND QUESTIONS  
FLOOD PROTECTION CORRIDOR PROGRAM  
MIDDLE CREEK FLOOD DAMAGE REDUCTION AND  
ECOSYSTEM RESTORATION PROJECT  
Robinson Rancheria Tribal Community Center  
6:30 PM, Thursday, August 28, 2003**

1. When will the Federal Authorization for the Corps of Engineers Project happen?

Due to procedural complications related to the USA-In-Trust lands (Robinson Rancheria), the process described below has been delayed for approximately one year. Following are the steps to get the Middle Creek, Lake County, California, Flood Damage Reduction and Ecosystem Restoration project approved to be built.

The process to get the Middle Creek Feasibility Report approved is:

1. Completion of Washington Level Review (at Headquarters, US Army Corps of Engineers, expected end of September) then comes:
2. The Chief of Engineers Report- (Chief of the US Army Corps of Engineers) The report that recommends the project to the Administration,
3. The Chief's Report is sent to the Office of the Assistant Secretary of the Army for Civil Works,
4. Once they approve the report it is sent to Office of Management and Budget to be included in the Administration's program and then sent to Congress.

Congress authorizes the project in the Water Resources Development Act (WRDA). WRDA usually happens every two years. There may or may not be a bill this year.

2. How will property values be determined? Property has been devalued by the pending Corps of Engineers project.

The dollar value of property rights to be acquired shall be determined through an appraisal or appraisals prepared by a qualified independent appraiser in accordance with standard appraisal practices. Each appraisal shall be approved by the California Department of General Services prior to the acquisition of the property addressed in the appraisal.

The appraiser will inspect your property and note its physical characteristics. The property owner will be invited to accompany the Lake County Flood Control and Water Conservation District's (District) appraiser when the property is inspected for the appraisal. This provides the owner the opportunity to point out any unusual or hidden features of the property that the appraiser could overlook. The appraiser will review sales of other properties similar to yours in order to compare the facts of those sales with the facts about your property and then analyze all elements that affect value. By law, the appraiser must disregard the influence of the future public project on the value of the property. The appraisal report will describe your property and the District will determine a value based on the condition of the property on the day that the appraiser last saw it, as compared with other similar properties that have sold.

3. I have purchased two barns for the property, and am getting ready to build them. Should I build them, or not?

This is up to you, the property owner. If you are interested in selling, you should determine if the value added to the property by the addition of the barns equals or exceeds the cost of erecting the barns. A certified appraiser may be able to advise you in this regard.

4. We are in the middle of refinancing our home. Do we stop the refinancing process?

This is up to you, the property owner. We cannot guarantee we will have funds available to purchase your house. You may choose not to sell your property to the District, or we may not agree on a purchase price. If the property is purchased, considerable time may elapse between now and actual purchase (see Question No. 7).

5. Who is behind the project to remove the levees and restore the Reclamation Area?

The project was conceptualized during the preparation of the Clean Lakes Report in the early 1990's as an action that was anticipated to provide significant improvements to water quality in Clear Lake and reduce nuisance, blue-green algal blooms. Due to the high cost of acquiring all the affected property and restoring this historic portion of Clear Lake, implementation did not appear to be reasonable in the near future.

During the flood events of 1983 and 1986, the inadequacy of the levees in the Reclamation Area became apparent and methods were investigated to provide better flood protection. In 1987, the Corps of Engineers informed the County they would not repair the levees downstream of the Scotts Creek-Middle Creek confluence utilizing authorities granted under PL 84-99. At a December 1994 public meeting in Nice with the current property owners, the County and the State, it was made clear that there would not be financial assistance available to repair the levees and provide the designed level of flood protection. The only financial assistance potentially available at that time to remove the flood risk to the property owners in the Reclamation Area was a newly created program under the Corps of Engineers, the ecosystem restoration program.

After experiencing the floods of January and March 1995, the District requested the Corps of Engineers conduct a Reconnaissance Study to determine the feasibility of an ecosystem restoration project (restoring the Reclamation Area to its natural condition). The Reconnaissance Study was completed in May 1997. The Corps of Engineers began the Feasibility Study and environmental documents in June 1999.

The Lake County Board of Supervisors has supported the restoration project as one of its top projects for the last several years.

6. What about mosquitoes? Won't the restoration make mosquitoes worse?

Mosquitoes are trapped by the Vector Control District in numerous locations in the County. Usually, the highest counts in the County are in the Reclamation Area, approximately twice the counts in Anderson Marsh. The rice fields do not have a fully developed food chain and produce a large number of mosquitoes, despite the extensive management efforts.

Restoration will expose the mosquitoes to the predators in Clear Lake, similar to Anderson Marsh. We anticipate mosquito densities to decrease after the full restoration project is implemented and has established a stable ecosystem.

7. How long will the relocation process take? What about delays?

If we, the District, are going to purchase your property, then we are obligated to follow the government guidelines for property acquisition. A reasonable timeline is between 6 and 12 months to complete the acquisition process. The relocation process starts after the seller signs escrow instructions and will add time to this process.

8. Do we have to take relocation assistance?

A seller may decline relocation assistance, however, we must offer it for acquisitions to count towards the Federal project. If the seller chooses to decline relocation assistance, it must be in writing.

9. What if I have two properties and only one has a home? Will you only buy one?

This will be addressed on a case-by-case basis. Individual appraisal issues, i.e. severance, may make it more cost effective to purchase both parcels at once, instead of individually.

10. Will you be working on buying more than one property at a time?

The District's plan is to request appraisals on a number of parcels that we intend to purchase with Flood Protection Corridor Program (FPCP) funding so we can be negotiating with several property owners at once. At this time, we have not determined how many we will start with, however, it will probably be less than all 18 properties with residential structures, and only be on properties where the owner has indicated a willingness to sell. Priority will be given to those properties with the greatest flood risk, i.e. those properties with flood prone residential structures and with the lowest elevation.

11. Why go through this process? Why not just get conservation easements through the Agriculture Department?

We believe the easements you are discussing are intended to preserve agricultural land from development. This would still require the maintenance of the existing, substandard levee system, and keep the properties at risk of flooding. A majority of the property is below the "full" level of Clear Lake, therefore, the levees would need to be maintained. Levee maintenance is also very costly for the property owners.

Agricultural conservation easements will not meet the goals of the County and District. Our goals are removing property from danger of flooding (see above paragraph) and improving the water quality of Clear Lake. For the area to provide the water quality benefit, stream flows from Middle and Scotts Creeks must pass through the Reclamation Area, allowing sediments to settle out and nutrients be removed from the water. The present levees do not allow this function.

Also, maintenance of the land in agricultural production does not provide the significant habitat benefits ecosystem restoration will provide.

12. Once we have started negotiations, can we back out of a sale?

The seller may back out of the contract at any time up until the Title Company has received the signed seller's escrow instructions.

13. What happens if you only buy 4 or 5 properties?

The potential for flood damage has been reduced by purchasing the property and removing floodprone structures and facilities. This is the goal of the Flood Protection Corridor Program and one of the goals of the County and District.

14. Do we have to pay capital gains on property sold?

There are provisions in the Federal and State tax codes that allow waiving of capital gains from sale of a principal residence. For detailed information, contact your tax attorney or qualified CPA.

15. Can the County and/or Corps of Engineers use eminent domain (condemnation) later?

All governmental agencies have the power of eminent domain for public benefit. The Flood Protection Corridor Program prohibits the use of eminent domain for purchases funded from that source.

16. What happens if the Ecosystem Restoration Project falls through?

The potential for flood damage has been reduced by purchasing the property and removing floodprone structures and facilities. This is the goal of the Flood Protection Corridor Program and one of the goals of the County and District.

17. Will the private property owners have to pick up the cost of MA-17 and Reclamation District 2070?

The District has proposed setting aside a trust fund to pay for operation and maintenance of the properties purchased. The District is proposing the maximum of twenty percent (20%) of the acquired property value be set aside for the trust fund. We anticipate the creation of a trust fund of approximately \$600,000. The largest portion of operation and maintenance

costs are the assessments for MA-17 and Reclamation District 2070, which will be paid from the interest earned from and the principal of the trust fund. This minimizes the impacts on nearby properties, as required by Proposition 13. This also results in decreased funding for purchase of flood prone properties.

18. Can the low property tax value (set by Proposition 13) be transferred to new property?

The Lake County Assessor has informed us that there are no such programs available in Lake County.

19. When will the first escrow close?

See the response to Question No. 7.

20. Can you replace our home and property, like with like?

That is the goal of the relocation assistance program.

21. What if we can't find an equivalent property at the same price?

Under Public Law 91-646, the affected homeowner (displacee) can be authorized up to \$22,500 as a differential housing payment to make up the difference between the home they are selling and the comparable replacement housing they are purchasing. If the price difference between the house they are selling and the comparable replacement housing they are purchasing exceeds the \$22,500 differential housing payment limit, Last Resort Housing can be authorized if the supply of available housing is insufficient for those persons being displaced.

22. If we don't like the County's appraisal, can we get our own appraisal?

The property owner may contract with a State-qualified certified appraiser to support an opinion of value, however, the appraisal conducted by the District will be the official appraisal used to prepare an offer. All appraisals must pass the DWR Land and Right of Way appraisal review and then be approved through the Department of General Services' appraisal review

23. Can people cross private property to access public property?

No, not without the private property owner's permission. Nearly all the properties are accessible from public roads, the exception being some of the agricultural parcels on the western side of the project. At this time, development of the acquired parcels for public use is not anticipated. Public use, such as hiking trails, etc. are proposed when the area is restored (the Federal project).

24. We want a list of properties designated for possible acquisition.

A list of properties will be provided.

25. What happens if there are not enough willing sellers?

The District will acquire as much land as possible from willing sellers. Any unspent money will remain with the State.

26. Why are we doing this?

See the response to Question No. 5.

27. Will the FPCP money count towards the Lake County's share of the Corps of Engineers project?

Yes, the draft agreement between the Lake County Flood Control and Water Conservation District and the California Department of Water Resources (DWR) states:

Because the Middle Creek Project is a flood management project subject to a cost-sharing formula imposed by the U.S. Army Corps of Engineers, the funding provided by the State pursuant to this agreement for costs creditable toward the federal project shall count toward the cost-sharing obligation of the State and the local agency sponsor, with the ratio of such sharing of credit to be the same ratio determined pursuant to Water Code Section 12585.7.

28. Are there other flowage easements in the project (besides those on the USA-In-Trust lands, aka Robinson Rancheria)?

No other flowage easements without fee title acquisition are planned at this time. The Corps of Engineers requires property be owned "in fee" for implementation of the full restoration project. Since Lake County will be holding fee title on real property purchased with FPCP funds, the County will be required to encumber those titles with a flowage and/or conservation easement to be held by some other agency such as the Wildlife Conservation Board or a land trust to ensure that the goals of the Program will be accomplished in perpetuity.